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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/625,582	07/23/2003	Reiner Bartsch	2701	7748

7590 05/16/2007
STRIKER, STRIKER & STENBY
103 East Neck Road
Huntington, NY 11743

EXAMINER

DEGHAN, QUEENIE S

ART UNIT	PAPER NUMBER
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1731

MAIL DATE	DELIVERY MODE
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05/16/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/625,582

Applicant(s)

BARTSCH, REINER

Examiner

Queenie Dehghan

Art Unit

1731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 February 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-31 is/are pending in the application.
- 4a) Of the above claim(s) 11-16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 17-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Information Disclosure Statement

1. The applicant was correct in regards to the IDS filed July 23, 2003. The prior art reference of "Schott-Glaslexikon" was considered.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 17-31 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claims 11, 16 and 20 recite a hollow glass body made of an alkali-metal containing glass, which does not appear to be explicitly disclosed in the specification.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

4. Claims 17-25 and 30-31 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Art Unit: 1731

5. Regarding claims 11 and 16, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).
6. Claims 19, 23, and 30 are unclear as to how a bottom is formed on the lower end of the hollow glass tube. Doesn't the tube already have a bottom? Claim 13 is also unclear as to on which tube is the bottom formed, the cut one or the remaining one.
7. Claims 20, 24, and 31 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01. The omitted step is the indication of closing of the bottom before the requirement for opening the bottom.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 17 and 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ritt et al. (4,516,998) in view of Bennett et al. (3,985,535). Ritt et al. disclose a method for making small glass containers from hollow glass tube that is clamped in a vertical orientation, wherein the tube has an interior surface, an open upper end and a lower end. Furthermore, Ritt et al. disclose thermally cutting the tube to length, forming a closed bottom at the lower end of the tube, heating the lower end of the hollow glass

Art Unit: 1731

tube to thermally open the bottom and forming a mouth of the glass container at the lower end (figure 1, col. 1 lines 10-52). Ritt et al. further disclose the partially closing of the of the tube at the open upper end by sealing the upper end and creating a dot shaped opening in the upper end. Doing so produces an overpressure during the heating of the lower end, but preventing excessive overpressure in the tube (col. 2 lines 5-9, 40-50). Additionally Ritt et al. disclose manufacturing small glass containers with the steps mentioned above in order to prevent contamination from volatile glass components that are blown into the interior of the glass tube during processing (col. 1 lines 53-59). But Ritt et al. fail to specifically mention what the contaminants are. Bennett et al. disclose ampoules that are typically made of an alkali-metal containing glass, such as aluminosilicate (col. 1 lines 60-63). In using the aluminosilicate glass of Bennett et al., Ritt et al. process would reduce the contamination of the alkali compounds resulting from thermal processing. It would have been obvious to one of ordinary skill in the art at the time the invention was made to expect the small glass containers of Ritt et al. to be made of aluminosilicate glass because Bennett et al. has demonstrated that is known in the art to utilize such a glass composition for the making of ampoules and for the strength that aluminosilicate glass provides to the ampoules made.

10. Claims 22-28 and 30-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ritt et al. (4,516,998) in view of Bennett et al. (3,985,535) and Schul (4,010,022) or Mueller et al. (6,536,239). Ritt et al. disclose a method for making small glass containers from hollow glass tube that is clamped in a vertical orientation, wherein

Art Unit: 1731

the tube has an interior surface, an open upper end and a lower end. Furthermore, Ritt et al disclose thermally cutting the tube to length, forming a closed bottom at the lower end of the tube, heating the lower end of the hollow glass tube to thermally open the bottom and forming a mouth of the glass container at the lower end (figure 1, col. 1 lines 10-52). Ritt et al. further disclose heating the lower end of the hollow glass tube and creating an overpressure during the heating of the lower end (col. 2 lines 5-9, 40-50). Additionally Ritt et al. disclose manufacturing small glass containers with the steps mentioned above in order to prevent contamination from volatile glass components that are blown into the interior of the glass tube during processing (col. 1 lines 53-59). But Ritt et al. fail to specifically mention what the contaminants are. Bennett et al. disclose ampoules that are typically made of an alkali-metal containing glass, such as aluminosilicate (col. 1 lines 60-63). In using the aluminosilicate glass of Bennett et al., Ritt et al. process would reduce the contamination of the alkali compounds resulting from thermal processing. It would have been obvious to one of ordinary skill in the art at the time the invention was made to expect the small glass containers of Ritt et al. to be made of aluminosilicate glass because Bennett et al. has demonstrated that is known in the art to utilize such a glass composition for the making of ampoules and for the strength that aluminosilicate glass provides to the ampoules made.

11. Ritt et al. also fail to disclose the blowing of gas into the tube to create the overpressure. Schul teach blowing gas into a glass tube being processed in order to create an overpressure in the interior of the tube (col. 2 lines 65-68). Mueller et al. also teach blowing air into one end of the tube while the other end is processed thermally

Art Unit: 1731

and hence creating an overpressure in the tube being processed (col. 9 lines 33-37). It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the blowing gas of Schul or Mueller et al. in order to create the overpressure of Ritt et al. in order to prevent contamination of the interior surface.

12. Claims 18 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ritt et al. (4,516,998) in view of Bennett et al. (3,985,535) and Schul (4,010,022) or Mueller et al. (6,536,239), as applied to claims 11 and 22 above, in further view of Leber et al. (5,171,343). Ritt et al. fail to disclose the use of a stopper to partially close the upper end. Leber et al. teach using a stopper (10) with a through-going opening to close one end of tube that is being thermally processed at the other end (figure 1, col. 4 lines 20-24). Although Leber et al. discuss applying a negative pressure inside the tube, it would have been obvious to one of ordinary skill in the art to utilize the stopper of Leber et al. in the process of Ritt et al., Bennett et al., and Schul or Mueller et al. in order to provide for a partial closing of the tube in order to create the desired pressure inside the tube being processed, and as exemplified by Ritt et al., the creation of a overpressure in the tube is desired.

Response to Arguments

13. Applicant's arguments with respect to claims 11- 20 (17-26) have been considered but are moot in view of the new ground(s) of rejection.

14. Applicant's arguments regarding the overpressure provided by Mueller have been fully considered but they are not persuasive. The applicant argues that Mueller's

Art Unit: 1731

overpressure is dependent on the dimensions of the tubes, whereas the overpressure recited by the applicant depends on the chemical composition of the surface. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the relative degree of overpressure required to be effective) is not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Conclusion

15. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Art Unit: 1731

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Queenie Dehghan whose telephone number is (571)272-8209. The examiner can normally be reached on Monday through Friday 8:30am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven Griffin can be reached on 571-272-1189. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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